

REMARKS

1. Applicant thanks the Office for its generous assistance provided during a telephone interview on December 1, 2009. During said interview, the Office affirmed that it understood the arguments that Applicant set forth in a draft response submitted for the Office's review on November 24, 2009. The Office suggested an amendment to the independent Claims that would remove remaining impediments to allowance of the Claims.

2. APPLICANT COMMENTS ON THE OFFICE'S "RESPONSE TO ARGUMENTS".

Applicant respectfully disagrees with the Office's assertion that Applicant has steadfastly argued that the invention is not directed to using an IP address as a client identifier. Rather, the thrust of Applicant's arguments has been that the use of an IP address as a client identifier is problematic for reasons discussed throughout the prosecution. Time and again, the Office has cited references that use IP addresses, either to identify a client, or a location, etc. Applicant has successfully demonstrated, each time, that the particular citation does not read on the Claims. What Applicant has argued is that the client identifier must uniquely identify the client, and that it be client-originated. As a practical matter, it is difficult for IP addresses to satisfy these criteria because they are not client-originated. An IP address is always assigned, and is therefore not client-originated. Additionally, the assignment of an IP address is always temporary. Because of the ephemeral nature of IP-address assignments, they can always be assigned to other clients. Thus, because IP-address assignments are always temporary and IP addresses can be readily re-assigned, they cannot uniquely identify a client. Even in the case of a static IP address, as described in Chiles, the static IP address is "manually assigned" (col. 15, ll. 35-38) by the device owner. Because the IP address is manually assignable, it can readily be reassigned. Additionally, because the IP address was assigned in the first place, it is not client-originated. As described in the specification, and previously during

prosecution, conventional IP addresses also suffer the disadvantage of being easily spoofed.

Applicant also notes that the Office's remarks regarding Goertzel and Hibbard are substantially the same as in previous actions. Thus, the Office has not raised any new issues regarding these references. Applicant extensively discussed the two references in its Response of May 15, 2009. Beyond a general statement that the Office disagrees with Applicant, the Office has completely failed to make any point-by-point response to Applicant's previous arguments regarding Goertzel/Hibbard. Accordingly, Applicant's previous statements regarding Goertzel/Hibbard have not been effectively rebutted. The Office's complete omission of any rebuttal of Applicant's arguments therefore constitutes an implicit admission by the Office that they are correct and valid.

3. 35 U.S.C. § 103

Claims 1, 4-5, 8-9, 12-16, 19-28, 32-33, 35-36, 38, 41-42, 45-46, 49-53, 56-65, 70 and 72-73 are rejected as being unpatentable over U.S. patent no. 6,308,273 ("Goertzel") in view of U.S. patent no. 6,308,273 ("Chiles") and further in view of U.S. patent no. 7,454,794 ("Hibberd"). Applicant respectfully disagrees.

Applicant incorporates herein its previous remarks regarding Goertzel and Hibberd as if fully set forth herein. Accordingly, Applicant's remarks will be directed primarily to Chiles.

Claim 1:

The Office relies on Chiles, col. 14, lines 35-38; Col. 15, lines 16-30 and 47-52 as teaching or suggesting "at least one client-originated item of data that uniquely identifies the client machine." Applicant respectfully disagrees. While the citations from Chiles describe the assignment of a static IP address to the client, and mapping of the static address to an IP address originated by a host server, so that the host server can identify the client, the static IP address suffers from the deficiencies noted above. It is assigned, and therefore not "client originated." And because it is assigned, it can easily be reassigned. Thus, it

cannot uniquely identify the client. In short, Chiles's static IP address again fails to read on the Claims. Additionally, the Office alleges that it would be obvious to use a manually-assigned static IP address because it would result in a permanent binding which can allow a host system to recognize the client system that is initiating the communication, relying on Chiles, col. 14, line 42-44 as support for the allegation. With respect, Applicant believes that the Office overreaches and ascribes subject matter to the reference that it doesn't describe.

Not a word is said in Chiles that a permanent binding takes place between the client and the host. In fact, at least at col. 2, lines 8-13 it is described, "The home-networked client devices communicate with the host system through the home gateway device over the single communication tunnel. The system configuration enables the host system to establish individual communication sessions with the home-networked client devices over the single communication tunnel and to assign independent Internet addresses to the home-networked client devices" (emphasis added). Thus, Chiles implicitly describes that the binding is not permanent but rather persists only for a session. In fact, at col. 2, lines 42-46, it is stated, "The independent client devices may be recognized by the host system through the use of unique identifiers assigned to each of the client devices by the host system during the established communication session" (emphasis added): Additionally, at col. 15 lines 5-15, Chiles describes, "Once the L2TP session is established, the host system 1230 assigns the home gateway device 1215 an IP address for that particular L2TP session. The home gateway device 1215 maps the host-assigned IP address to the client device 1205 local address, thus allowing communications between the client device 1205 and the host system 1230 to occur using an independent host-assigned Internet address. The home gateway device 1215 will continue mapping the Internet address provided by the host system 1230 to the client device's 1205 local address as long as the L2TP session remains connected." Chiles also describes, at col. 15, ll. 5-7 that the host assigns an IP address to a session associated with the client. Thus, Chiles clearly describes that there is no binding of a host-assigned IP address to a client that persists for more than a session;

and, in fact, that there is no binding at all of a host-assigned IP address to the client. Rather, the binding of the host-assigned IP address is to a session not the client.

Additionally, the host has no access to the client's static IP address. Rather the mapping of the host-assigned IP address to the session assigned to the client, as described in col. 15, lines 16-32, occurs at the gateway computer. To the host, the client is identified only by the host's own IP address. Incoming data from the host to the client is mapped to the client's static IP address at the gateway computer. Thus, the client's static IP address does not serve in any way to identify the client to the host.

Applicant has described just this circumstance in the specification. Chiles's gateway computer may be seen as a species of proxy. Applicant described exactly the situation of a client, having an IP address, behind a proxy, and that the client's unique IP address is unavailable to uniquely identify the client to the host because it is concealed by the proxy. Here the host only knows the [user]/[client] from the [user ID]/[host-assigned IP address]. However, because the binding between the [user-ID] and the [host-assigned IP address] is ephemeral, persisting only for a session, and because the [host-assigned IP address] does not uniquely identify the client machine, it would be futile to attempt to use a [user ID]/[host-assigned IP address] pair as an entity to whom trust is extended on a persistent basis. Because the user ID-host assigned IP address pair persists for only a session, it would be pointless to issue such an entity a trust token, because such entity persists only for a session. The user, logging in from the same client, for a subsequent session, would look like a completely different entity to the host.

The subject matter of the Claims would not be obvious to the ordinarily-skilled practitioner because, as described above the combination Goertzel/Chiles/Hibbard fails to teach or suggest all elements of the Claimed subject matter. Furthermore, there would be no motivation to combine the references because, as above, the combination would not result in a solution to

the problem addressed by the Claimed subject matter. The present rejection is therefore deemed improper.

The foregoing remarks apply equally to Claim 38. In view of their dependence from allowable Claims, the dependent Claims are deemed allowable without any separate consideration of their merits.

In spite of the foregoing, in the interest of advancing prosecution of the Application, Applicant amends Claims 1 and 38 in the manner suggested by the Office. Because the amended Claims only describe explicitly what was already described in the Claims, support for the amendment is implicit in the claims in their condition previous to the present amendment. Claims 1 and 38 are therefore deemed allowable over the combination. In view of their dependence from allowable parent Claims, the dependent Claims are deemed allowable without any separate consideration of their merits.

No new matter is added by way of the amendments. Such amendments are made solely for the sake of expedience and do not reflect Applicant's agreement with the Office's position. Nor do such amendments indicate intent to forsake Claim scope. In fact, Applicant expressly reserves the right to pursue patent protection of a scope it reasonably believes it is entitled to in future submissions to the Office.

Claims 10, 29, 37, 47, 66 and 74 are rejected as being unpatentable over Goertzel/Chiles/Hibbard in view of U.S. patent application pub. no. 2003/0028495 ("Pallante"). In view of the foregoing, the present rejection is deemed improper/overcome.

Claims 34 and 71 are rejected as being unpatentable over Goertzel/Chiles/Hibbard in view of U.S. patent application pub. no. 2002/0073339 ("Card"). In view of the foregoing, the present rejection is deemed improper/overcome.

Claim 69 is rejected as being unpatentable over Goertzel/Chiles/Hibbard in view of U.S. patent application pub. no. 2002/0032793 ("Malan"). In view of the foregoing, the present rejection is deemed improper/overcome.

4. AMENDMENTS TO THE SPECIFICATION

The specification is amended at page 28, line 6 to describe that an embodiment constitutes a computer program product comprising computer-readable instructions embodied on a tangible medium for performing the steps described herein above.

Support for the amendment is found at original Claim 38 and its dependent Claims, which Claims form a portion of the original disclosure. No new matter is added by way of such amendment.

5. For the record, Applicant respectfully traverses any and all factual assertions in the file that are not supported by documentary evidence. Such include assertions based on findings of inherency, assertions based on official notice, and any other assertions of what is well known or commonly known in the prior art.

CONCLUSION

In view of the foregoing, the Application is deemed to be in allowable condition. Therefore, Applicant respectfully requests reconsideration and prompt allowance of the claims. Should the Examiner have any questions regarding the Application, he is urged to contact Applicant's Attorney at 650-474-8400.

Respectfully submitted,



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